

*** NOT FOR PUBLICATION ***

NO. 25146

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

RICHARD BLAISDELL, Petitioner-Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT CIRCUIT
(S.P.P. NO. 01-1-0015; CR. NO. 92-2513)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.
and Circuit Judge Wong, assigned by reason of vacancy)

Petitioner-appellant Richard Blaisdell appeals from the May 10, 2002 order of the circuit court of the first circuit, the Honorable Victoria S. Marks presiding, denying Blaisdell's Hawai'i Rules of Penal Procedure (HRPP) Rule 40 petition for post conviction relief. On appeal, Blaisdell argues that his defense counsel rendered ineffective assistance of counsel by failing to: (1) investigate and call witnesses that could have bolstered his credibility; (2) object to the prosecution's deliberate creation of a highly prejudicial atmosphere; (3) effectively cross-examine the witnesses; (4) object to the prosecution's exclusion of uncharged facts presented by various complainants; (5) object to portions of the prosecution's closing arguments that were inflammatory and highly prejudicial; and (6) require the court to comport with the requirements of the extended term of imprisonment statute.

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Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we hold that the circuit court did not err when it denied Blaisdell's HRPP Rule 40 petition for post conviction relief inasmuch as Blaisdell failed to raise the issue of ineffective assistance of trial counsel in his previous HRPP Rule 40 petitions and failed to prove the existence of extraordinary circumstances to justify the failure to raise this issue, and, thus, this issue was waived. See Stanley v. State, 76 Hawai'i 446, 451, 879 P.2d 551, 556 (1994). Moreover, Blaisdell failed to specifically challenge the circuit court's findings of fact and conclusions of law numbers four and forty-one concluding that trial counsel was effective, and, thus, they are binding on this court. See Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4)(C)¹; Okada Trucking Co., Ltd. v. Board of Water Supply, 97 Hawai'i 450, 458, 40 P.3d 73, 81

¹ HRAP Rule 28(b)(4)(C) provides:

(4) A concise statement of the points of error set forth in separately numbered paragraphs. Each point shall state: (i) the alleged error committed by the court or agency; (ii) where in the record the alleged error occurred; and (iii) where in the record the alleged error was objected to or the manner in which the alleged error was brought to the attention of the court or agency. Where applicable, each point shall also include the following:

. . . .
(C) when the point involves a finding or conclusion of the court or agency, a quotation of the finding or conclusion urged as error[.]

. . . .
Points not presented in accordance with this section will be disregarded

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(2002). Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, July 16, 2003.

On the briefs:

Dana S. Ishibashi
for petitioner-appellant
Richard Blaisdell

Loren J. Thomas,
Deputy Prosecuting Attorney
for respondent-appellee
State of Hawai'i